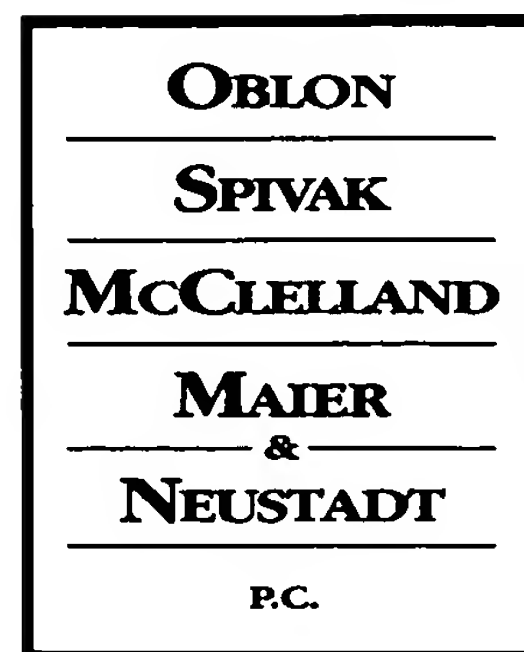




Docket No.: 241807US2 DIV

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

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RE: Application Serial No.: 10/657,068
Applicants: Toshiaki IWAMATSU et al.
Filing Date: September 9, 2003
For: SEMICONDUCTOR DEVICE AND METHOD OF
MANUFACTURING THE SAME
Group Art Unit: 2818
Examiner: HUYNH, A.

SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION OF SPECIES

Our check in the amount of - is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

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Registration No. 34,423



DOCKET NO: 241807US2 DIV

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
TOSHIAKI IWAMATSU ET AL. : EXAMINER: HUYNH, A.
SERIAL NO: 10/657,068 :
FILED: SEPTEMBER 9, 2003 : GROUP ART UNIT: 2818
FOR: SEMICONDUCTOR DEVICE AND :
METHOD OF MANUFACTURING :
THE SAME :

PROVISIONAL ELECTION OF SPECIES

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Election of Species Requirement mailed August 30, 2004,
Applicants provisionally elect, with traverse, Species A, Figure 32 for examination on the
merits in the present application. Claims 11-12 and 22-25 are identified by the outstanding
Office Action as readable on Species A.

Applicants note the semiconductor device of Claims 11-12 is shown in Figure 32, and
the semiconductor device of Claims 22-25 is shown in Figure 52. Thus, Applicants believe
that Claims 22-25 are not readable on Species A. If the Examiner further requires an election
of Claims 11-12 and 22-25, in order to expedite the prosecution of this application,
Applicants further provisionally elect, with traverse, Claims 11-12 for examination on the
merits.

Applicants respectfully traverse the Election of Species Requirement because the PTO has not carried forward its burden of proof to establish that searching and examining the claims corresponding to the noted species would be an undue burden.

In particular, MPEP § 803 states:

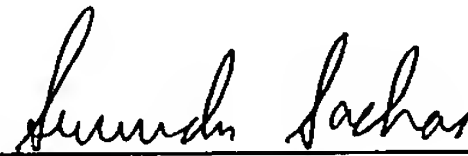
If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area.

Accordingly, Applicants respectfully traverse the outstanding Election Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



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